

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

Granville Morris,
Charging Party,

v .

U.L.P. No. 99-12-272

DELAWARE CORRECTION OFFICERS
ASSOCIATION and STATE OF DELAWARE,
DEPARTMENT OF CORRECTIONS.

Respondents,

PROBABLE CAUSE DETERMINATION

Granville Morris, an employee of the Department of Correction ("DOT"), is a public employee within the meaning of Section 1302(m) of the Public Employment Relations Act 19 Del.C. Ch. 13 (1994) (PERA" or "Act"). The State of Delaware, Department of Correction ("DOC") is a public employer within the meaning of Section 1302(n) of the Act. The Delaware Correctional Officers Association ("Association" or "DCOA") is an employee organization within the meaning of Section 1302(h) of the Act.

The unfair labor practice charge filed on December 10, 1999, alleges, inter alia:

- 1) DOC improperly administered a random drug testing procedure which resulted in an unwarranted suspension;
- 2) DCOA officers failed to accurately explain the circumstances of the grievance protesting the false positive result to the union membership which then voted not to process the grievance to arbitration;
- 3) Petitioner was subsequently denied a promotion because of the suspension.

The Petitioner alleges violations of 1307(a)(1), (2), (3) and (6), of the Act and (b)(1), (2), (3) and (6), of the Act.

The Respondents either deny material allegations or claim inability to respond because of insufficient knowledge. Each denies engaging in conduct which violates the provisions of the Act, as alleged.

APPLICABLE STATUTORY PROVISIONS

19 Del C§1307, Unfair Labor Practices., provides in relevant part:

(a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

- (1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this Chapter.
- (2) Dominate, interfere with or assist in the formation, existence or administration of any labor organization.
- (3) Encourage or discourage membership in any labor organization by discrimination in regard to hiring tenure or other terms and conditions of employment.
- (6) Refuse or fail to comply with any provision of this Chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this Chapter.

(b) It is unfair labor practice for public employee or for an employee organization or its designated representative to do any of the following:

- (1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this Chapter.
- (2) Refuse to bargain collectively in good faith, with the public employer or its designated representative if the employee organization is an exclusive representative.

(3) Refuse or fail to comply with any provision of the Chapter or with the rules and regulations of the Board pursuant to its responsibility to regulate collective bargaining under this Chapter.

(6) Hinder or prevent, by threats, intimidation, force or coercion of any kind the pursuit of any lawful work or employment by any person, or interfere with the entrance to or egress from any place of employment.

DETERMINATION

Considered in a light most favorable to the Petitioner, the factual issues raised by the pleadings constitute probable cause to believe that an unfair labor practice may have occurred.

February 11, 2000

(Date)

Charles D. Long

Charles D. Long,

Executive Director